
From: [REDACTED]
Sent:
To: NYSAG EMAIL FOR INTRANET
Subject: Form submission from: Questions & Comments to Attorney General Eric T. Schneiderman

Submitted on Monday, March 7, 2016 - 18:12 Submitted by user: Anonymous Submitted values are:

--Personal Information--

First Name: [REDACTED]
Last Name: [REDACTED]
Address 1: [REDACTED]
City: [REDACTED]
State/Province: New York
Zip/Postal Code: [REDACTED]
Phone: [REDACTED]
Email Address: [REDACTED]

Comments:

I read that the AG's office is investigating the availability to obtain tickets to public events. I attend a good number of concerts every year, I have multiple credit cards allowing me access to presales. It is not unusual of me to be notified about certain events well after the presale begins and even then I am steered towards certain specific seats no matter how many times I search.

yesterday I searched for tickets to see a show at jones beach on June 14th 2016. the presale begins tomorrow, March 8th 2016, and tickets were on sale on multiple resale marketplaces. I thought you might be interested in this, because I am interested in finding out how this can happen.

From: [REDACTED] >
Sent: Monday, April 24, 2017 12:22 AM
To: NYSAG EMAIL FOR INTRANET
Subject: Form submission from: Questions & Comments to Attorney General Eric T. Schneiderman

Submitted on Monday, April 24, 2017 - 00:22 Submitted by user: Anonymous Submitted values are:

==Personal Information==

First Name: [REDACTED]
Last Name: [REDACTED]
Address 1: [REDACTED]
City: [REDACTED]
State/Province: New York
Zip/Postal Code: [REDACTED]
Phone: [REDACTED]
Email Address [REDACTED]

Comments:

I wrote some time ago about tickets being sold before they go on sale in the Capitol theater in Port Chester.
I am writing again to let you know that tickets are now on sale (and have been all day today, 4-23-2017, maybe longer) for a 9-30-2017 Billy Joel concert at Madison Square Garden. According to the MSG website, tickets go on sale to the general public on 4-28-2017 at 10:00am. Also; on the ticketmaster website, they have the presale beginning on 4-24-2017 at 10:00am.

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

-----X
**THE PEOPLE OF THE STATE OF NEW YORK,
by BARBARA D. UNDERWOOD, Attorney General of the
State of New York,**

Plaintiff,

SUMMONS

-against-

Index No.

**Plaintiff Designates New
York County as the Place of
Trial**

**TICKETNETWORK, INC.,
EVENTVEST, INC., d/b/a TICKET GALAXY, and
DONALD VACCARO,**

Defendants.

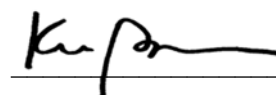
-----X

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer in this action and serve a copy of your answer on the Plaintiff's attorney within twenty (20) days after service of this summons, exclusive of the day of service. If this summons is not personally served upon you, or if the summons is served upon you outside of the State of New York then your notice of appearance must be served within thirty (30) days. In the case of your failure to appear or answer, judgment will be taken against you by default, for the relief demanded in the complaint.

Date Filed: September 14, 2018
New York, New York

BARBARA D. UNDERWOOD
Attorney General of the State of New York
Attorney for Plaintiff:
By:



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Executive Deputy Attorney General
Economic Justice Division

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

-----X

**THE PEOPLE OF THE STATE OF NEW YORK,
by BARBARA D. UNDERWOOD, Attorney General of the
State of New York,**

Plaintiff,

COMPLAINT

-against-

**Index No.
IAS Part**

**TICKETNETWORK, INC.,
EVENTVEST, INC., d/b/a TICKET GALAXY, and
DONALD VACCARO,**

Defendants.

-----X

Of Counsel:

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NATURE OF THE ACTION

1. Plaintiff, the People of the State of New York, by Attorney General Barbara D. Underwood (the “OAG”), brings this action pursuant to Executive Law § 63(12), General Business Law (“GBL”) Article 22-A, §§ 349 and 350, and GBL § 396 to remedy fraudulent, deceptive, and unlawful practices by: (a) TicketNetwork, Inc. (“TicketNetwork”), the operator of a ticket resale platform, (b) Eventvest, Inc., d/b/a Ticket Galaxy, a ticket broker, and (c) Donald Vaccaro, the companies’ majority owner and Chief Executive Officer (“CEO”), in his individual capacity (collectively, the “Defendants”).

2. From at least 2009 to the present (the “Relevant Period”), Defendant TicketNetwork, in concert with Defendant Ticket Galaxy and dozens of other professional ticket resellers (“brokers”), engaged in a massive scheme to trick tens of thousands of unsuspecting consumers into buying tickets to concerts, shows, and other live events that the sellers did not actually have.

3. At the heart of the Defendants’ scheme are “speculative tickets” – offers to sell tickets that the ticket seller does not have, has not yet purchased, and does not have a contractual right to obtain. Only after a consumer places an order for speculative tickets does the listing broker attempt to purchase *real* tickets, at a lower price, from a different source to provide to the buyer. The broker keeps the difference between the price that he paid and the price at which he sold the speculative ticket.

4. For years, TicketNetwork has operated programs specifically designed to enable Ticket Galaxy and other select ticket brokers to offer speculative tickets for sale through the TicketNetwork ticket resale platform that look like real tickets. Speculative ticket listings on the TicketNetwork platform are, in all relevant ways, indistinguishable from listings for real tickets,

and appear to consumers to be offers for tickets that the sellers have already secured, and can provide.

5. Ticket Galaxy and other brokers, preying on consumers' confusion, often use these programs to post speculative listings for popular concerts and other events before tickets to the events have even been released for sale to the public. During this period, when few other tickets are available, the demand for tickets is so great that Ticket Galaxy and other brokers can charge enormous premiums for tickets – often hundreds or thousands of dollars above face value.

6. TicketNetwork charges brokers participating in these programs a significant fee for the ability to sell speculative tickets through the TicketNetwork resale platform - in some cases two and a half times what the broker pays to sell similarly-priced real tickets. Participating brokers are more than willing to pay the inflated fees because the sale of speculative tickets is so lucrative.

7. The Defendants have gone to great lengths to conceal their scheme. For example, TicketNetwork has misrepresented to consumers that “[s]elling, attempting to sell, or advertising speculative tickets is **strictly prohibited** by our website.” (Emphasis added.)

8. Similarly, Ticket Galaxy's customer representatives routinely lied to their customers when they could not provide the tickets the customers had purchased, to avoid revealing that the company had never possessed the advertised tickets to begin with.

9. Defendant Vaccaro, the majority owner and CEO of both TicketNetwork and Ticket Galaxy, had knowledge of and controlled all aspects of the deceptive scheme.

10. The Defendants' conduct impacted thousands of consumers. Many consumers who unknowingly purchased speculative tickets paid vastly inflated prices. In addition, many

consumers did not receive the seats that were advertised. In some cases, consumers received no tickets at all.

11. The Defendants' scheme also harms the live entertainment industry. Undisclosed speculative tickets, like those offered through the TicketNetwork platform, have for years been the source of widespread confusion and frustration among consumers, who do not understand how tickets can appear on the resale market before tickets are released to the public.

12. Between January 1, 2012 and April 1, 2018, New York consumers paid more than \$37 million for tickets sold through TicketNetwork's speculative tickets programs. During this period, consumers outside of New York paid more than \$54 million for tickets sold by New York brokers through these programs.

13. The OAG seeks restitution for consumers as well as injunctive and equitable relief appropriate to redress the Defendants' fraudulent and deceptive conduct. In addition, the OAG seeks the imposition of civil penalties and the reasonable costs of investigation and litigation.

PARTIES

14. Plaintiff is the People of the State of New York by their attorney, Barbara D. Underwood.

15. Defendant TicketNetwork, Inc. ("TicketNetwork") is a Delaware corporation with its principal place of business at 75 Gerber Road East, South Windsor, Connecticut.

16. Defendant Eventvest, Inc. d/b/a Ticket Galaxy is a Connecticut corporation with its principal place of business at 75 Gerber Road East, South Windsor, Connecticut. The company operates a ticket resale business. For each of the last several years, Ticket Galaxy has obtained a ticket reseller license from the New York State Department of State.

17. Eventvest, Inc. took over its ticket resale business from a predecessor corporation, Metro Entertainment, Inc., in 2013 or 2014. For the purposes of this complaint, “Ticket Galaxy” refers to the ticket resale business of both Eventvest, Inc. and Metro Entertainment, Inc.

18. Defendants TicketNetwork and Ticket Galaxy (the “Corporate Defendants”) have transacted business in the State of New York by marketing and selling, and assisting in the marketing and selling of, tickets to live events, in New York and elsewhere, to consumers in New York. TicketNetwork and Ticket Galaxy have also contracted to supply tickets to live events, in New York and elsewhere, to consumers in New York.

19. In addition, TicketNetwork has transacted business in New York by contracting with ticket brokers in New York, marketing and selling tickets on behalf of those brokers, and assisting those brokers in marketing and selling tickets to live events.

20. Ticket Galaxy has also transacted business in New York by contracting with the operator of at least one New York venue to market and sell tickets to events in New York to consumers in New York and elsewhere.

21. Defendant Donald Vaccaro is a Connecticut resident. Vaccaro is the majority owner and CEO of both TicketNetwork and Ticket Galaxy. He exercises significant managerial control over both companies.

22. On September 5, 2018, Plaintiff sent the Defendants a pre-litigation notice, pursuant to GBL Article 22-A, by certified mail, return receipt requested. Plaintiff also sent the Defendants’ counsel a copy of the pre-litigation notice by email on September 5, 2018.

JURISDICTION

23. This Court has jurisdiction pursuant to: (i) Executive Law § 63(12), under which the OAG is empowered to seek injunctive relief, restitution, damages, and other equitable relief,

including disgorgement, when a person or business entity engages in repeated fraudulent or illegal acts or persistent fraud or illegality in the carrying on, conducting, or transaction of business; (ii) GBL § 349(b), which authorizes the OAG to seek injunctive relief, restitution, civil penalties, and other equitable relief, including disgorgement, when a person or business entity engages in deceptive acts and practices in the conduct of any business, trade, or commerce; (iii) GBL § 350, which authorizes the OAG to seek injunctive relief, restitution, civil penalties, and other equitable relief, including disgorgement, when a person or business engages in false advertising in the conduct of any business, trade or commerce in the state of New York; and (iv) GBL § 396, which authorizes the OAG to seek injunctive relief and other equitable relief, including disgorgement, when a person or business engages in unlawful selling practices.

BACKGROUND

I. Transactions Involving Tickets are a Matter of Public Interest

24. New York State is home to one of the most robust and diverse markets for live entertainment in the world. Every day the state hosts a wide range of performers, shows, and events, including singers, bands, orchestras, operas, ballet, theater, and professional sports teams.

25. In view of the integral part that the live entertainment industry plays in the New York economy, the New York legislature has declared that “transactions involving tickets to places of entertainment are a matter of public interest and subject to [. . .] supervision.” Arts and Cultural Affairs Law (“ACA Law”) § 25.01. Therefore, to “safeguard[] the public against fraud, extortion, and similar abuses” that have long been a concern in the industry, the legislature has enacted laws that carefully regulate the sale and resale of tickets. *Id.*

26. For example, section 25.13 of the ACA Law requires that any person, firm, or corporation that resells or engages in the business of reselling tickets to a place of entertainment first obtain a license from the New York Secretary of State. ACA Law § 25.13. Licensees are

required to post a \$25,000 bond to ensure compliance with the law and to cover any damages sustained by the reseller's customers due to the reseller's misstatement, misrepresentation, fraud, or deceit, or any unlawful act or omission. ACA Law § 25.15. Licensees are also required to post a copy of the license in their principal place of business, and conspicuously display a hyperlink to a scanned copy of the license on whichever website they do business on. ACA Law § 25.19.

27. In June 2018, the New York State Legislature, recognizing the need for further reforms to protect consumers in light of "the unscrupulous practices of the industry," passed legislation amending the Arts and Cultural Affairs Law. Mem. Supp. of Legislation, A8245C (2018). One of the unscrupulous practices targeted by the legislature was the sale of speculative tickets, which, although "often deceptive and illegal under New York's existing consumer protection laws," has nevertheless been "widespread." *Id.*

28. To curb the abusive practice, the Legislature enacted a new statute, ACA Law § 25.10, that expressly prohibits the sale of speculative tickets unless it is accompanied by multiple, robust disclosures that the purchaser expressly confirms having reviewed. In particular, the seller must disclose in a clear and conspicuous manner and in plain language, both at the time of the offering and prior to the completion of the transaction, that the seller does not have the ticket, does not have a contract to obtain the ticket, and may not be able to supply the ticket at the contracted price, *and* the seller must require that the purchaser expressly confirm having reviewed the disclosure prior to completing the transaction. *Id.* The new law takes effect on December 28, 2018.

II. Ticket Sales on the Primary and Secondary Markets

29. The initial sale of a ticket to a live event, either by a venue, team, show, or promoter, is known as the primary ticket market. Any subsequent sale of those tickets is known

as the secondary, or resale, ticket market. Those who engage in the business of reselling tickets are commonly referred to as ticket brokers.

30. Tickets to live events are frequently bought and sold online. Ticket brokers typically resell tickets online through online markets known as ticket resale platforms.

31. To offer tickets for sale through a ticket resale platform, a ticket broker supplies the platform with basic information about the tickets and the offer, such as the location of the tickets, the date by which they will be delivered to the consumer, and a price. The resale platform then publishes that information on a website or through a mobile app or other software. Each published offer is known as a “ticket listing.” Consumers can then use a website, app, or other software to search for and purchase tickets.

32. Ticket platforms charge the ticket broker a fee for each transaction, typically a percentage of the broker’s revenue from the sale. Ticket platforms also charge consumers a service fee.

FACTUAL ALLEGATIONS

I. TicketNetwork and Ticket Galaxy Publish Offers to Sell Tickets

33. TicketNetwork operates a ticket resale platform that enables ticket resellers to offer tickets for sale through ticket listings.

34. TicketNetwork publishes ticket listings made on the TicketNetwork platform on a variety of websites including TicketNetwork’s own websites, TicketNetwork.com and TicketLiquidator.com. Visitors to these websites can find events with ticket listings using the sites’ search box, at the top of most pages, or by browsing highlighted events that appear on the homepage.

35. Once a user identifies an event that she is interested in, she can view the ticket listings for that event by clicking on a button labeled “Get Tickets.” The user is then presented

with a list of available tickets beside a map of the venue. Below is a recent screenshot of the webpage from the TicketNetwork website.

TicketNetwork Search Performers, Events, Venues, & Locations **Need Help? Call Us 1-888-456-8499**

SAT
SEP 22
8:00PM

Hamilton
Richard Rodgers Theatre, New York, NY
[Show All Events](#)

100% Money-Back Guarantee
Ticket Network is a resale marketplace, not a box office or venue. Prices may be above or below face value. Your seats are together unless otherwise noted. Tickets will be the ones you ordered or better.

Seating Map:
 - **Seats 28-2 (Even):** Rear Mezzanine (Green), Front Mezzanine (Blue), Upper Block (Purple), Lower Block (Orange)
 - **Seats 101-114:** Rear Mezzanine (Green), Front Mezzanine (Blue), Upper Block (Purple), Lower Block (Orange)
 - **Seats 1-27 (Odd):** Rear Mezzanine (Green), Front Mezzanine (Blue), Upper Block (Purple), Lower Block (Orange)
 - **Orchestra:** Red
 - **Stage:** Black
 - **Right, Center, Left:** Labels for the main seating areas
 - **Upper Block:** H, G, F, E, D, C, B, A
 - **Lower Block:** H, G, F, E, D, C, B, A
 - **Mezzanine:** H, G, F, E, D, C, B, A
 - **Orchestra:** X, W, V, U, T, S, R, Q, P, O, N, M, L, K, J, I, H, G, F, E, D, C, B, A, CC

Ticket Listings:

Package	Price	Continue
Rear Mezzanine Right Row D - 2 Tickets	\$462/ea	Continue
Box B Row 1 - 2 Tickets	\$534/ea	Continue
Orchestra Center Row L - 1 Ticket	\$554/ea	Continue
Front Mezzanine Left Row C - 2 Tickets	\$555/ea	Continue
Orchestra Left Row V - 2 Tickets	\$594/ea	Continue
Front Mezzanine Center Row E - 2 Tickets	\$625/ea	Continue
Orchestra Right Row P - 2 Tickets	\$696/ea	Continue
Orchestra Center Row V - 2 Tickets	\$717/ea	Continue
Orchestra Right Row V - 1-4 Tickets	\$740/ea	Continue
Orchestra Center Row U - 2 or 4 Tickets	\$764/ea	Continue
Silver-Fan Row Package - 1-6 Ticket P...	\$792/ea	Continue

Screenshot from TicketNetwork.com website, September 8, 2018

36. Each ticket listing specifies a seat location, the number of tickets that are available, and the price. The seat location in a listing may identify a single section and row (e.g. Orchestra Center, Row AA), or an area of the venue that corresponds to several rows or sections (e.g., Sec. 202, Rows A-X; Zone B).

37. The venue map beside the listings is interactive. When a user hovers the mouse cursor over a ticket listing, the portion of the map that corresponds to the listing's seat location flashes. If the user instead clicks on an area of the venue map, the full list of ticket listings for

the event is removed and replaced by only those ticket listings with seat locations in the user-selected area.

38. Consumers can place an order for particular tickets either by selecting the button, labeled “Buy” or “Continue,” and entering delivery and payment information through the website, or by calling TicketNetwork and speaking with a TicketNetwork customer service representative.

39. The ticket listings convey, expressly and by implication, that the ticket seller has or has the right to sell the listed ticket and will provide that ticket to the purchaser.

40. Other representations found on TicketNetwork’s websites also convey this impression. For example, a TicketNetwork document entitled “What to Know Before Selling Tickets,” which has been publicly available on the TicketNetwork.com website, expressly represents to consumers that it prohibits brokers from listing “speculative tickets”:

You can only list tickets through us if you have the tickets in your possession.

We want to make sure that people don’t use our marketplace to sell speculative tickets – ie: resell tickets they don’t yet own based on the assumption that they’ll be able to access the tickets when an order for them is eventually placed. **Selling, attempting to sell, or advertising speculative tickets is strictly prohibited by our website.** We value security for our buyers and we want to make sure that anyone who uses our marketplace is listing only valid and legitimate tickets.

(Emphasis added.)

41. Similarly, TicketNetwork’s Broker Guidebook, which TicketNetwork has also made publicly available on the TicketNetwork.com website, provides that only real tickets may be listed through the TicketNetwork platform: “Brokers shall only list tickets under two conditions: (1) when they have the tickets ‘in hand,’ or (2) when they can provide proof of purchase of the tickets . . . Brokers shall not list speculative tickets.”

42. Although these documents contain rules for brokers, TicketNetwork has made clear that one intended audience for these documents is, in fact, consumers. In litigation with the New Jersey Attorney General's Office, TicketNetwork represented to the court that this speculative ticket policy was one of the "protections" put in place to "encourage consumers to buy tickets."¹

43. Aspects of the ticket sale transaction itself also convey that the ticket seller has the listed ticket or a right to sell the listed ticket, and will be able to provide that ticket. For example, consumers are charged immediately upon placing an order, not when they receive the ordered tickets. Additionally, the Corporate Defendants prohibit consumers from canceling orders, telling consumers that all sales are final "[s]ince tickets are a one-of-a-kind item and not replaceable. . . ."

44. TicketNetwork ticket listings appear on other websites as well. For example, TicketNetwork operates a program called TicketNetwork Private Label that pays affiliate marketers a commission for each sale they help generate through the TicketNetwork platform. TicketNetwork operates websites on behalf of many of these marketers that carry the listings from the TicketNetwork platform. Other affiliates that operate their own websites use software supplied by TicketNetwork, known as a plug-in, to retrieve and display listings from the TicketNetwork platform.

45. In addition, TicketNetwork helps operate websites on behalf of certain brokers that resell tickets through the TicketNetwork platform, including Ticket Galaxy. Below is a recent screenshot from the Ticket Galaxy website.

¹ *Milgram v. Ortiz Worldwide, Inc.*, Index. No. ESX-C-142-09, N.J. Super. Ct. Law Div., Def. TicketNetwork's Mem. Supp. Summ. J. 5, Jun. 18, 2010.

TICKET GALAXY SPORTS CONCERTS THEATER FAMILY COMPANY

SAT Sep 22 8:00PM **Hamilton** Richard Rodgers Theatre, New York, NY

100% Worry-Free Guarantee
 • Prices are set by third-party sellers and may be above or below face value.
 • Your seats are together unless otherwise noted.

Quantity: Any Quantity Price Range: \$445 - \$2,092 More Options

Sort by Price - Low to High

Section	Row	Tickets	Price
Orchestra Center	Row L	1 Ticket	\$534/ea
Front Mezzanine Center	Row E	2 Tickets	\$601/ea
Orchestra Right	Row P	2 Tickets	\$670/ea
Orchestra Center	Row V	2 Tickets	\$690/ea
Orchestra Right	Row V	1-4 Tickets	\$712/ea
Orchestra Center	Row U	2-4 Tickets	\$735/ea
Front Mezzanine Left	Row F	1-4 Tickets	\$801/ea
Front Mezzanine Center	Row B	2 Tickets	\$837/ea
Orchestra Left	Row Q	1-4 Tickets	\$890/ea
Orchestra Center	Row R	1-2 Tickets	\$913/ea
Orchestra Center	Row S	1-3 Tickets	\$913/ea
Orchestra Left	Row E	2 Tickets	\$1,002/ea
Orchestra Left	Row D	2 Tickets	\$1,037/ea

Seating Chart:

Seats 28-2 (Even) Seats 101-114 Seats 1-27 (Odd)

Rear Mezzanine

Seats 28-2 (Even) Seats 101-114 Seats 1-27 (Odd)

Front Mezzanine

Upper Block Lower Block

Seats 28-2 (Even) Seats 101-113 Seats 1-27 (Odd)

Right Center Left

Orchestra

Stage

Select by Zone

Screenshot from Ticket Galaxy website, September 8, 2018

46. In all of these cases, TicketNetwork controls how the ticket listings are displayed to consumers. The listings are, in all relevant respects, displayed in the same manner as the listings on the TicketNetwork websites and convey, expressly and by implication, that the ticket seller has or has the right to sell the listed ticket and will provide that ticket to the purchaser.

47. TicketNetwork and Ticket Galaxy do not publish or provide a hyperlink to face-value information for the tickets listed on their websites.

II. Defendants Engaged in a Deceptive Scheme to Offer and Sell Speculative Tickets

A. TicketNetwork Operates Programs Designed to Allow Select Brokers to Post Speculative Ticket Listings that Look Like Real Tickets

48. Despite TicketNetwork's representations to consumers that it prohibits speculative ticket listings, since at least 2009 TicketNetwork has operated programs specifically designed to enable select brokers to post listings for speculative tickets.

49. TicketNetwork refers to these programs collectively as its "Category Programs," and ticket listings posted through these programs as "category" or "cat" listings.² TicketNetwork employees also refer to Category Listings by the more common industry terms: speculative tickets and "spec" tickets.

50. The company refers to tickets that brokers purchased *before* they were offered for resale as "real" tickets.

51. TicketNetwork's documents confirm that the company intended the Category Programs to serve as the exclusive means for brokers to post speculative ticket listings through the TicketNetwork platform. For example, one TicketNetwork document explained that one of the Category Programs was created "in response to a growing trend of ticket brokers listing high quantities of non-existent tickets," so that TicketNetwork could "gain a greater degree of control over the speculative ticket sales process listed through our exchange."

52. Moreover, TicketNetwork designed the Category Programs so that speculative tickets published through the programs would appear to consumers to be real tickets. Indeed, a TicketNetwork document explained that a central benefit of the programs was to "create the

² For the purposes of this complaint, "Category Listing" refers to any listing made through one of the Category Programs and "Category Order" refers to an order to buy tickets in a Category Listing.

appearance of plentiful inventory on the [TicketNetwork] Exchange when there are little or no real tickets, such as when an event is first announced. . . .”

53. The same TicketNetwork document also explained that the Category Programs were an important source of revenue for the company for at least two reasons. *First*, the programs helped “generate sales that would not otherwise materialize when limited real inventory is available.” *Second*, the programs helped “generate higher fees for TicketNetwork,” both because category listings sell at higher average prices than real tickets and because TicketNetwork charges brokers a higher fee for Category Orders.

54. In fact, TicketNetwork charges brokers that participate in the Category Programs substantially more for Category Orders than for orders of real tickets. For real tickets ordered through TicketNetwork’s platform, TicketNetwork typically charges brokers a fee of between 3% and 15% of the tickets’ wholesale price, depending on the broker. For Category Orders, TicketNetwork charges brokers an additional 5% of the tickets’ wholesale price, which can result in fees of between 8% and 20%. For some brokers, the fee for a category sale is two and a half times the fee for the sale of equally priced real tickets.

55. Brokers are willing to pay these higher fees because Category Orders are more lucrative. Brokers that participate in the Category Programs frequently use the programs to offer speculative tickets for sale in the period after an event is announced, but before tickets for the event have been released for sale to the public. During this period, when there are few other tickets on the market (because tickets have not yet been released for sale), the demand is so great that brokers can charge enormous premiums for tickets to popular concerts – often hundreds or thousands of dollars above face value.

56. After a consumer places an order for the speculative tickets, the listing broker then attempts to purchase *real* tickets, at a lower price, from a different source to provide to the buyer. The broker keeps the difference between the price that he paid and the price at which he sold the ticket.

57. The TicketNetwork document explains an additional benefit of the Category Programs: the programs help “make TicketNetwork a more important marketplace for brokers” by creating added value for participating brokers.

B. The Category Programs’ Speculative Ticket Listings are Fraudulent, Deceptive and Illegal

58. In most cases, Category Listings are published alongside, and are indistinguishable from, listings for real tickets. Like listings for real tickets, Category Listings specify a seating location, the number of tickets that are available, and the price. Below is a sample screenshot from the TicketNetwork.com website that contains Category Listings. When this screenshot was captured, no tickets for the event were available on the primary market because *the band had not yet committed to performing at the venue*.

ticketnetwork Sports Concerts Theater

Search by performer, team or venue
Need Help Ordering? Call 1-888-888-8888

Home > Concerts > Mannheim Steamroller Christmas

WED
Dec 6
[Time TBA]

Mannheim Steamroller Christmas
Powers Theater - Clemens Center, Elmira, NY

100% Money Back Guarantee

- TicketNetwork is a resale marketplace, not a box office or venue.
- Prices may be above or below face value.
- Your seats are together unless otherwise noted.

Quantity: Any Quantity | Price Range: \$123 - \$390 | More Options

Compare Sort by Price - Low to High

<input type="checkbox"/>	BALCONY	Row O	1-4 Tickets	①	\$123 ^{ea}	Buy
<input type="checkbox"/>	BALCONY	Row P	1-5 Tickets	①	\$123 ^{ea}	Buy
<input type="checkbox"/>	ORCHESTRA	Row X	1-4 Tickets	①	\$166 ^{ea}	Buy
<input type="checkbox"/>	ORCHESTRA	Row Y	1-5 Tickets	①	\$166 ^{ea}	Buy
<input type="checkbox"/>	Zone D	1-10 FLeX Tickets	①	\$180 ^{ea}	Buy	
<input type="checkbox"/>	BALC-L	Row P	2 Tickets	①	\$190 ^{ea}	Buy
<input type="checkbox"/>	BALC-R	Row L	2 Tickets	①	\$205 ^{ea}	Buy
<input type="checkbox"/>	ORCH-L	Row Z	2 Tickets	①	\$214 ^{ea}	Buy
<input type="checkbox"/>	BALC-L	Row J	2 Tickets	①	\$219 ^{ea}	Buy
<input type="checkbox"/>	BALC-R	Row P	2-4 Tickets	①	\$228 ^{ea}	Buy

An interactive map is temporarily unavailable.

Seating Chart Legend: Zone A (Dark Blue), Zone B (Light Blue), Zone C (Green), Zone D (Light Green)

Screenshot from TicketNetwork.com website, September 1, 2017

59. A reasonable consumer viewing Category Listings like those depicted above would believe that the ticket seller has or has the right to sell the listed tickets and will provide those tickets to the purchaser. But that is not the case – brokers offering speculative tickets through the Category Programs have nothing more than an anticipation of obtaining similar tickets.

60. This information – whether the seller has or has the right to sell the listed ticket - is an important factor in consumers' decision to purchase tickets. Indeed, as demonstrated further below, consumers who discover that a seller did not have the listed ticket at the time the listing was posted become confused and upset.

61. The Corporate Defendants' later disclosures reinforce this misimpression. For example, the Corporate Defendants' statements concerning the availability and delivery of tickets suggest that Category Listings are, in fact, listings for real tickets that the seller has purchased but not yet received.

62. The screenshot below, captured after selecting a Category Listing on the webpage shown above, clicking the "Buy" button, and hovering the mouse cursor over the "?" icon on the following screen, contains one such statement: "The seller has not yet received your tickets, but you'll get them before the event." This statement conveys to consumers that the ticket seller has secured the advertised tickets but does not yet possess them. Indeed, this is the same message consumers receive when attempting to purchase real tickets that the seller has already purchased but are not yet in hand.

Have an account? [Log In](#)

(888) 456-8499

1 Delivery

Where do you want your tickets and receipt emailed?

*Email Address

☒ Yes, I want TicketNetwork.com to send me event updates and ticket discounts. [Privacy Policy](#)

☐ Yes, I want to receive exclusive deals and discounts from select third parties.

Delivery Method

eTicket (\$7.95)
You'll receive an eTicket and you'll be able to print your eTickets and take them with you to the venue.

Expected Download Date: 12/2/2017

[Change Delivery Method](#)

Mannheim Steamroller Christmas
Wednesday, December 06, 2017 at TBA
Powers Theater - Clemens Center in Elmira, NY US
Section: ORCHESTRA | Row: X

Quantity: 1 \$166.00 each **\$166.00**

Subtotal: \$166.00

Proceed to Payment

You will be able to create an account after checkout.

2 Payment

Screenshot from TicketNetwork.com website, September 1, 2017

63. Similarly, a page on the TicketNetwork.com website that contains “Frequently Asked Questions” suggests that tickets may not be in the seller’s possession at the time of purchase simply because they have not yet been printed.

When will my tickets ship, and how soon will they arrive?

Many ticket sellers make their tickets available to you before they have even been printed, which gives customers an edge on getting great seats in advance. **Because this sometimes happens, tickets may not be “in hand” at the time of purchase.**

Seller notes often indicate when an order will ship (at the latest), so customers know when to expect their tickets. They may also note that tickets are “in hand,” which means they can ship immediately. After your tickets have shipped, you will receive a FedEx tracking number, so you may track your purchase.

Either way, we guarantee your tickets will arrive in time. View our 100% Guarantee for more details.

(Emphasis added.)

64. Critically, at no point does either of the Corporate Defendants disclose which listings are Category Listings. Nor do the Corporate Defendants disclose in any Category Listing that the broker does not have, and does not have a contractual right to, the listed tickets. Defendants have a generalized statement, buried several pages into the terms and policies section of the Defendants’ websites, that “some ticket listings [] may only be representations of available tickets and not actual seat locations or currently available tickets.” However, this statement does not alter the false and deceptive impression that is conveyed, both explicitly and implicitly, to consumers elsewhere on Defendants’ sites that the seller actually has or has a right to sell the listed ticket.

65. The OAG has found no evidence that the Corporate Defendants’ interactions with consumers who place their orders by phone are different in a material way. Customer

representatives necessarily must provide consumers who call with some of the same ticket listing information that is available online, including the seat location, the number of tickets that are available, and the price. Absent adequate disclosure that a listing is a Category Listing, or that the seller has nothing more than the anticipation that he will be able to obtain the listed ticket, statements made by customer representatives to consumers would be similarly fraudulent and deceptive. In this case, a reasonable consumer would understand Corporate Defendants' customer representatives to be offering tickets that the seller has or has a right to sell, and will be able to provide.

C. TicketNetwork Orchestrates the Deceptive Scheme through its Operation of the Category Programs

66. TicketNetwork orchestrates the scheme to publish deceptive speculative ticket listings through its operation of the Category Programs.

67. TicketNetwork controls all aspects of the Category Programs. The company hand picks the brokers that can participate in each of the Category Programs and offer speculative tickets for sale. TicketNetwork also determines at which venues each participating broker may post Category Listings.

68. TicketNetwork also sets and enforces the policies for the Category Programs. These policies include, for example, limits on the number of Category Listings that each participating broker can post per event, and restrictions on how brokers can describe the seating locations in some of their Category Listings. TicketNetwork reserves the right to discipline brokers that violate these policies, including by removing noncompliant listings, assessing penalties for violations, and, if there are repeated violations, revoking brokers' listing privileges from the TicketNetwork platform entirely.

69. TicketNetwork has also spent considerable time and resources building and maintaining functionality in its point-of-sale (“POS”) system, which is TicketNetwork’s proprietary software that allows brokers to manage their ticket inventory, specifically to enable brokers to post and manage their speculative ticket listings through the Category Programs.

70. For example, TicketNetwork implemented functionality that enables a broker to keep a Category Listing on the platform even after a consumer places an order, so that other consumers can order the same speculative tickets. In contrast, listings for real tickets are removed immediately after a consumer places an order.

71. TicketNetwork has also built custom reporting functionality that enables brokers to review which of their Category listings have been published on TicketNetwork’s websites and affiliate sites.

72. TicketNetwork has also taken an active role in certain brokers’ operations. For example, TicketNetwork has requested that Ticket Galaxy post Category Listings to popular events before tickets were released to the public so that TicketNetwork’s affiliate marketers could begin promoting the listings. TicketNetwork has also directed at least one broker to fill a Category Order that the broker had rejected because tickets were still available to the event on the secondary market.

D. Ticket Galaxy and Dozens of Other Brokers Have Offered Tens of Thousands of Deceptive Speculative Ticket Listings through TicketNetwork’s Category Programs

73. At least since 2009, Ticket Galaxy has been an active participant in the Category Programs. It has used these programs to offer speculative tickets for sale to consumers in New York, through tens of thousands of listings published online and made available by phone.

74. Between January 2012 and April 1, 2018, consumers in New York placed more than 34,000 orders for Category Listings from Ticket Galaxy.

75. Over the course of days or weeks after a consumer places an order for a Ticket Galaxy Category Listing, Ticket Galaxy employees will determine whether the company will fill the order by purchasing tickets on the primary or secondary market. Ticket Galaxy instructs employees to fill a Category Order if (a) the company would make a profit of 15% or greater from the sale and (b) the tickets were in a location that the company considers equivalent to or better than the location advertised in the Category Listing. Ticket Galaxy considers a ticket equivalent or better if it is in a row or section that is at least as close to the stage as the location specified in the Category Listing.

76. When a member of Ticket Galaxy's category team is able to locate tickets that satisfy these requirements, an employee purchases the tickets and provides them to the customer. If the purchased tickets are in a location Ticket Galaxy considers equivalent to or better than the advertised location, the employee typically does not notify the customer that she has received different tickets than she ordered.

77. When Ticket Galaxy is unable to obtain tickets that satisfy these requirements, an employee may contact the customer and offer alternate tickets.³ If the customer refuses the offer, Ticket Galaxy may cancel the customer's order and refunds the customer's money, leaving the customer without any tickets. In some instances, customers are not informed until shortly before the event, leaving them with little or no opportunity to purchase replacement tickets from another seller.

78. Dozens of other brokers, including brokers in New York, have also used TicketNetwork's Category Programs to offer speculative tickets for sale to consumers, in New York and elsewhere, in a similar manner. Between January 2012 and April 1, 2018, consumers

³ In some cases, employees purchase and provide the customer with worse tickets without contacting the customer to obtain the customer's authorization.

in New York placed more than 62,000 orders for Category Listings posted by brokers other than Ticket Galaxy through the TicketNetwork platform. In this same period, consumers outside of New York placed more than 150,000 orders for Category Listings posted by New York brokers through the TicketNetwork platform.

E. The Corporate Defendants Have Made Other False and Misleading Statements and Concealed the Defendants' Deceptive Scheme

1. TicketNetwork Misrepresented its Policies and Practices to Consumers

79. TicketNetwork has falsely conveyed to consumers that its policies and practices prohibit the very conduct the Category Programs were designed to accomplish.

80. As described above, documents on the TicketNetwork website represented to consumers that the company prohibits brokers from posting speculative ticket listings. These representations were false and deceptive. The Category Programs were specifically designed to enable select brokers to post speculative listings. For example, when a TicketNetwork employee asked TicketNetwork's Director of Exchange Operations "who is allowed to list spec[ulative] inventory" on the TicketNetwork platform, the Director replied that "the official answer is no one haha but of course we know that category and spec is basically the same."

2. TicketNetwork Has Attempted to Conceal the Existence and Nature of the Category Programs

81. TicketNetwork has attempted to conceal the existence and nature of the Category Programs. For example, TicketNetwork developed explanations of the Category Programs for an "external" audience that mask the true nature of the programs - to enable brokers to post speculative tickets.

82. A TicketNetwork document marked "CONFIDENTIAL INTERNAL USE ONLY" contains a list of these misleading "external" explanations. The document states, for example, that one external explanation for the Category Programs' existence is that "Category

tickets allow brokers to mask their inventory when they want to take advantage of TicketNetwork's marketplace without revealing the exact location of their seats."

83. The "external" explanations in the document sit below a markedly different list of explanations for an "internal" audience that explain that the Category Programs are used to list speculative tickets. For example, the document states that the Category Programs are helpful to "create the appearance of plentiful inventory . . . when there are little or no real tickets" and "generate sales that would not otherwise materialize when limited real inventory is available."

1. Why does the Category Program exist?

Internal Explanation

- Category tickets create the appearance of plentiful inventory on the Exchange when there are little or no real tickets, such as when an event is first announced or for events that brokers typically do not stock.
- Category tickets extend the sales cycle and generate sales that would not otherwise materialize when limited real inventory is available.
- Category tickets *may* boost conversion rates when there are limited real listings on the Exchange before the on-sale.
- Category tickets generate higher fees for TicketNetwork.
 - TN is able to charge higher fees because category orders tend to be more profitable for brokers.
 - Categories sell at higher average prices early in the sales cycle.
- Category permissions create added value for ticket brokers and make TicketNetwork a more important marketplace for brokers relative to others.

External Explanation

- Category tickets give trusted brokers flexibility when they list their tickets – when exact locations are unknown or when they have relationships that guarantee them seats in a certain area.
- Category tickets create more profit opportunity for TN and the broker, either early in the sales cycle when demand is greatest, or for events that brokers may not ordinarily stock.
- Category tickets are only for established, trusted brokers with high broker ratings and a track record of excellence.
- Category tickets allow brokers to mask their inventory when they want to take advantage of TicketNetwork's marketplace without revealing the exact locations of their seats.

84. TicketNetwork has also represented that it prohibits speculative tickets without disclosing the existence of the Category Programs. For example, in an enforcement action brought by the New Jersey Attorney General against TicketNetwork and others concerning speculative tickets listings made through the TicketNetwork platform, TicketNetwork represented to the New Jersey court that the company "forbids sellers from listing 'speculative'

tickets.” *Milgram v. Ortiz Worldwide, Inc.*, Index. No. ESX-C-142-09, N.J. Super. Ct. Law Div., Def. TicketNetwork’s Mem. Supp. Summ. J. 5, Jun. 18, 2010. The court relied on TicketNetwork’s representation in its decision. *Milgram v. Orbitz Worldwide, Inc.*, 419 N.J. Super. 305, 313 (N.J. Super. Ct. Law Div. 2010). At the time, however, TicketNetwork was already operating a Category Program.

85. TicketNetwork made similar representations to the OAG. On April 26, 2016, the OAG sent letters to the operators of several large ticket resale platforms, including TicketNetwork, seeking the companies’ help in bringing brokers into compliance with New York State laws. In a letter response dated August 5, 2016, TicketNetwork’s counsel wrote:

Another area of concern identified in your April 26 letter is so-called “speculative tickets.” You have defined speculative tickets as “tickets that resellers offer for sale, despite not having a ticket in hand or even the right to sell that particular ticket.” TicketNetwork already conducts its business as you have suggested. **The Company does not permit speculative tickets to be sold on its Website.** In fact, TicketNetwork actively discourages and **prohibits the sale of speculative tickets in its marketplace.**

(Emphasis added.) TicketNetwork did not disclose the existence of its Category Programs to the OAG.

3. Ticket Galaxy Made Additional Post-Purchase Misrepresentations to Conceal the Company’s Practices and Further Defendants’ Scheme

86. In many cases, Ticket Galaxy employees contacted customers to notify them that the seats they purchased were unavailable and to offer alternate tickets. These employees routinely provided customers with false and misleading explanations for the unavailability of the tickets the customers had purchased to conceal that the company never had the offered tickets.

87. For example, Ticket Galaxy customer representatives have represented to customers that their tickets were unavailable due to: (1) a listing error; (2) a technical error (“There was an error with the system and your order had processed in error”; “two or more

customers are trying to buy the same tickets at the same time”); and (3) a supplier issue (“[u]nfortunately there was an issue with our allotment of tickets for this event and we will no longer be able to supply you with tickets”; “there was an issue with our supplier that was providing the tickets for this performance”). In reality, when Ticket Galaxy listed these tickets for sale the company did not have, had not yet purchased, and did not have a contractual right to obtain the advertised tickets.

88. In addition, Ticket Galaxy employees falsely represented to some consumers that the company provides customers with the best tickets that are available. For example, a Ticket Galaxy employee responsible for filling category orders stated in an instant message to her supervisor that:

pretty sure i filled the order with GA 31 seats (mountain winery) and the customer had ordered BL32 seats, if u read the notes apparently the customer is calling the company fraudulent, etc. so im gonna call and explain **how our “system” automatically fills with best available seating?** and that there was an error with filling their order...idk im sorry but im over today hahahaha.

(Emphasis added.)

89. In fact, Ticket Galaxy instructs employees to provide customers with the worst seating in the company’s inventory that the company considers “equivalent” to the tickets advertised in the speculative ticket listings. For example, Ticket Galaxy’s internal training materials state that, when filling category orders, “we do not want to be filling orders until all tickets are entered [into the POS system] to ensure we are using **worst seats possible.**”

(Emphasis added.)

90. In addition, Ticket Galaxy employees falsely represented to some customers that the company had provided them with an “upgrade,” when in fact the company had provided seat locations that were farther from the stage than what the customers had ordered.

91. For example, in a May 23, 2016 email to a customer who had received different tickets than he had ordered, a Ticket Galaxy representative wrote that “We were able to upgrade your seats for no extra cost.” The customer, who had received seating that was worse than what Ticket Galaxy had advertised, wrote in response that “these are not upgraded tickets, they are farther away and not what I pa[id] for. I would like my [original] seats . . .”

III. The Defendants Have Known That Category Listings Are Deceptive

92. The Defendants have known for many years that consumers are deceived by Category Listings and other representations on the Defendants’ websites. For example, an internal TicketNetwork document from early 2013 that reflected a “Business Review” of one of the Category Programs referenced “Customer Service complaints and confusion” from Category Listings because “[c]ustomers didn’t realize they were buying category tickets that were not guaranteed in the exact section and row.” The document also referenced “Legal issues surrounding Category tickets” because of “Category inventory that appears real to consumer[s].”

93. Indeed, TicketNetwork and Ticket Galaxy are often contacted by customers who are confused or upset because they did not receive the tickets they had ordered. For example, one customer who contacted Ticket Galaxy by email in June 2016 after receiving alternate seats that were “not where we wanted to be” wrote that:

We selected our section because we are going as a group. Now us 4 will be totally separated from the rest . . . And finding all this out less than 24 hours before the event is quite an ordeal for us. Why couldn’t you get our seats? We purchased these the first day the ticket sales were announced. **Why did you claim that you had these seat[s] and what right did you have to offer them when you didn’t have them**

(Emphasis added.)

94. Similarly, a customer who did not receive the tickets he had ordered wrote to TicketNetwork in an email in June 2017 that:

The tickets I received from them are not [] in the desired section . . . They called to tell me I was “upgraded” for free but considering the specific theatre that I am in for the performance I hardly consider it an upgrade if I am further back . . . Is there anything that can be done? Because at the end of the day **they are not in the section that I was told they would be in.**

(Emphasis added.)

95. Another customer who received a notice that his tickets were cancelled contacted

Ticket Galaxy by email in May 2016, writing:

There was no mention of a waiting list for this event, as we discussed. Should I expect that to happen. I have travel plans and reservations already booked for this event and I want to cancel if you do not plan to notify me.

Please advise. This has been the most disappointing experience of this kind that I’ve ever had. **Clearly, not having accurate information on your site is/was the foundation of this problem.** My wife is more disappointed than me.

(Emphasis added.)

96. Defendant Vaccaro also knew that consumers were deceived by Category Listings. For example, in a November 2016 email to Vaccaro, the president of Ticket Galaxy expressed concern that consumers viewing Category Listings did not understand that they could receive tickets that did not match the locations specified in the listings. He wrote that “[i]deally, I’d really like to see [TicketNetwork] implement some type of notification to the consumer for category listings . . .” TicketNetwork did not implement a notification for Category Listings.

97. The Defendants have also known for years that the Federal Trade Commission (“FTC”) views speculative ticket listings that are disguised as real tickets, like those published through the Category Programs, to be deceptive and to violate federal law. In February 2010, a ticket resale platform, TicketsNow.com, Inc. (“TicketsNow”), entered into a settlement with the FTC resolving allegations that the company had engaged in unfair and deceptive practices by

allowing 15-20 “preferred” brokers to post speculative ticket listings without adequate disclosures. The settlement agreement prohibited TicketsNow from “failing to disclose, clearly and conspicuously and within close proximity to” a speculative ticket listing “that no Ticket is currently available but the Reseller is making an offer to seek to procure a Ticket.”

98. The FTC also sent out warning letters to the operators of several large ticket resale platforms. The warning letters stated that all speculative ticket listings should be accompanied by disclosures that clearly explain “that there is no ticket, but rather the listing is an offer to seek to procure one” because the “staff believes that this information is important to consumers and that failure to disclose it may violate the law.” TicketNetwork has been aware of the FTC’s warning letter at least since 2010.

IV. Many Consumers Who Placed Category Orders Were Injured

99. Many consumers duped into purchasing speculative tickets listed through TicketNetwork’s Category Programs paid more than they would have otherwise paid for real tickets. Indeed, it has been common for Category Listings for popular concert and other events to run hundreds or thousands of dollars above face value.

100. For example, in a December 7, 2015 letter to TicketNetwork, the OAG documented ticket listings to several Bruce Springsteen concerts at venues around New York State that ranged in price from \$2,100 to \$3,600 *per ticket*, all of which were posted on the TicketNetwork website before tickets were released for sale on the primary market. Below is a

screenshot capturing a portion of the listings for the concert at the First Niagara Center in Buffalo, New York.

Screenshot from TicketNetwork website, December 7, 2015

101. In addition, the Defendants' records show that thousands of consumers who placed Category Orders with Ticket Galaxy and other brokers through the TicketNetwork platform did not receive the tickets they ordered.

102. In many cases, Ticket Galaxy and other brokers provided consumers with tickets that did not match the locations specified in the Category Listings. Consumers often found the alternate tickets that Ticket Galaxy provided unacceptable. The notes of a Ticket Galaxy customer representative from an April 2016 call with a consumer are illustrative:

Customer's wife, [], calling in regarding being moved to almost mirror image and several rows closer as her husband purchased tickets in 105 since they have friends in that section. [] is very upset that she and her husband were not notified of the change. Explained several times that this was per our terms and policies and that we could not move them to 105, as we had no inventory available since the show was in two days.

103. In addition, in many cases Ticket Galaxy and other brokers simply rejected or canceled orders that the brokers were unable or unwilling to fill. Consumers, some of whom had already invested in airfare and lodging to attend the events, were then only able to attend if they could replace their tickets with whatever limited options remained on the market.

V. The Corporate Defendants Operated as a Common Enterprise to Sell Speculative Tickets

104. Defendants TicketNetwork and Ticket Galaxy are closely held companies that have operated as a common enterprise to sell speculative tickets through the Category Programs. As described more fully below, they have conducted their business as an interrelated network of companies that have common ownership, control, employees, office locations, and business functions. Because the Corporate Defendants have operated as a common enterprise, each of them is jointly and severally liable for the fraudulent, deceptive, and illegal acts and practices involved in their sale of speculative tickets.

105. As noted above, the companies have common ownership and control. Vaccaro is the principal owner, CEO, President, and Vice President of TicketNetwork and the principal owner, CEO, and Director of Ticket Galaxy. He exercises significant managerial control in those roles, including over the Category Programs. For example, as described below, Vaccaro has had ultimate decision making authority over all aspects of TicketNetwork's Category Programs since their inception, including deciding which brokers could participate and what the programs' policies would be.

106. The companies have also had common managers and employees. Until 2012 or 2013, a Vice President at TicketNetwork, overseen by Vaccaro, ran the day-to-day operation of Ticket Galaxy's corporate predecessor, Metro Entertainment. During this period, Metro Entertainment, under TicketNetwork's direction and control, participated in the Category Programs and offered speculative tickets for sale to consumers in New York through thousands of listings published online. The Vice President at TicketNetwork subsequently left the company and became the president of Ticket Galaxy.

107. In addition, in 2015 and 2016 an employee of Ticket Galaxy worked within TicketNetwork as the manager of TicketNetwork's Category Programs.

108. TicketNetwork and Ticket Galaxy also share an address and a variety of resources, including office space, IT services, accounting, facilities and human resource services. In June 2017, this arrangement was expanded to include legal services. At that time, TicketNetwork's General Counsel began assisting Ticket Galaxy in responding to the OAG's investigation, including reviewing Ticket Galaxy's internal materials for confidentiality and privilege issues prior to their production to the OAG. Pursuant to a professional services agreement, the companies share the cost of these services.

109. TicketNetwork also coordinates with Ticket Galaxy in a manner that offers Ticket Galaxy a competitive advantage over other brokers. For example, Ticket Galaxy has participated in internal TicketNetwork discussions concerning the operation of the Category Programs, including potential changes to Category Program policies.

110. TicketNetwork also provides Ticket Galaxy (and only Ticket Galaxy) access to non-public information concerning other brokers' Category Listings and sales. Ticket Galaxy has used that information to determine which events it should target for Category Listings and

how to price those listings. In addition, TicketNetwork has removed other brokers' speculative ticket listings from the TicketNetwork platform at Ticket Galaxy's request because the listings competed with Ticket Galaxy's listings for real inventory.

VI. Vaccaro is Personally Liable for His Companies' Conduct

111. Vaccaro had knowledge of and participated in the Corporate Defendants' illegal, fraudulent, and deceptive conduct.

112. Vaccaro has had ultimate decision making authority over all aspects of TicketNetwork's Category Programs since their inception. He has determined which brokers could participate in the programs, and which brokers could post Category Listings to the most popular events, such as to the Super Bowl.

113. Vaccaro has also set the policies and practices relating to the programs. For example, at Vaccaro's direction, TicketNetwork instituted a policy that capped the portion of a category brokers' total sales that could come from Category Orders. Similarly, at Vaccaro's direction, TicketNetwork instituted a policy banning certain Category Listings that spanned multiple rows or sections (e.g., "Section 202, Rows A-F" or "Sections 202-204, Rows A-F").

114. Vaccaro has also exercised decision-making authority over day-to-day operations of the Category Programs. For example, Vaccaro has authorized TicketNetwork personnel to comply with Ticket Galaxy's request to remove Category Listings that competed with Ticket Galaxy listings. Vaccaro has also exempted certain category brokers from complying with certain category program policies.

115. The Defendants TicketNetwork and Ticket Galaxy have acted for the benefit of Vaccaro, who owns more than 95% of both companies.

**FIRST CAUSE OF ACTION PURSUANT TO
EXECUTIVE LAW § 63(12):
REPEATED AND PERSISTENT FRAUDULENT BUSINESS CONDUCT
(as to all Defendants)**

116. The OAG repeats and realleges paragraphs 1 through 115 as if fully set forth herein.

117. Executive Law § 63(12) authorizes the OAG to bring an action to enjoin repeated or persistent fraudulent business conduct.

118. As set forth above, the Defendants have engaged in repeated and persistent fraudulent acts, including but not limited to:

- a. Misrepresenting the status of and rights with respect to tickets, directly participating in a deceptive scheme to misrepresent the status of and rights with respect to tickets, and maintaining control over ticket listings that misrepresented the status of and rights with respect to tickets;
- b. Failing to adequately disclose material information to consumers, including the status of and rights with respect to tickets;
- c. Misrepresenting the policies and practices concerning ticket resellers, including by misrepresenting that speculative ticket listings were prohibited on the TicketNetwork platform;
- d. Misrepresenting the policies and practices concerning filling ticket orders, including by misrepresenting to consumers that they would be provided with the best available seating;
- e. Misrepresenting to consumers the reasons ordered tickets were unavailable; and
- f. Misrepresenting to consumers the relative quality of tickets.

119. By these actions, the Defendants have engaged in repeated and persistent fraudulent conduct in violation of Executive Law § 63(12).

**SECOND CAUSE OF ACTION PURSUANT TO EXECUTIVE LAW § 63(12):
VIOLATIONS OF GENERAL BUSINESS LAW § 349:
DECEPTIVE BUSINESS PRACTICES
(as to all Defendants)**

120. The OAG repeats and re-alleges paragraphs 1 through 115 and incorporates them by reference herein.

121. Executive Law § 63(12) authorizes the Attorney General to bring an action to enjoin repeated illegal acts or persistent illegality in the carrying on, conducting, or transaction of business.

122. GBL § 349 prohibits deceptive acts and practices in the conduct of any business, trade, or commerce or in the furnishing of any service in the state of New York.

123. The Defendants have engaged in repeated and persistent deceptive acts and practices, including but not limited to:

- a. Misrepresenting the status of and rights with respect to tickets, directly participating in a deceptive scheme to misrepresent the status of and rights with respect to tickets, and maintaining control over ticket listings that misrepresented the status of and rights with respect to tickets;
- b. Failing to adequately disclose material information to consumers, including the status of and rights with respect to tickets;
- c. Misrepresenting the policies and practices concerning ticket resellers, including by misrepresenting that speculative ticket listings were prohibited on the TicketNetwork platform;

- d. Misrepresenting the policies and practices concerning filling ticket orders, including by misrepresenting to consumers that they would be provided with the best available seating;
- e. Misrepresenting to consumers the reasons ordered tickets were unavailable; and
- f. Misrepresenting to consumers the relative quality of tickets.

124. By these actions in violation of GBL § 349, the Defendants have engaged in repeated and persistent illegality in violation of Executive Law § 63(12).

**THIRD CAUSE OF ACTION PURSUANT TO EXECUTIVE LAW § 63(12):
VIOLATIONS OF GENERAL BUSINESS LAW § 350:
FALSE ADVERTISING
(as to all Defendants)**

125. The OAG repeats and re-alleges paragraphs 1 through 115 and incorporates them by reference herein.

126. Executive Law § 63(12) authorizes the Attorney General to bring an action to enjoin repeated illegal acts or persistent illegality in the carrying on, conducting, or transaction of business.

127. GBL § 350 prohibits false advertising in the conduct of any business, trade, or commerce or in the furnishing of any service in the state of New York

128. The Defendants have engaged in repeated and persistent deceptive acts and practices, including but not limited to:

- a. Misrepresenting the status of and rights with respect to tickets, directly participating in a deceptive scheme to misrepresent the status of and rights with respect to tickets, and maintaining control over ticket listings that misrepresented the status of and rights with respect to tickets;

- b. Failing to adequately disclose material information to consumers, including the status of and rights with respect to tickets;
- c. Misrepresenting the policies and practices concerning ticket resellers, including by misrepresenting that speculative ticket listings were prohibited on the TicketNetwork platform;
- d. Misrepresenting the policies and practices concerning filling ticket orders, including by misrepresenting to consumers that they would be provided with the best available seating;
- e. Misrepresenting to consumers the reasons ordered tickets were unavailable; and
- f. Misrepresenting to consumers the relative quality of tickets.

129. By these actions in violation of GBL § 350, Defendants have engaged in repeated and persistent illegality in violation of Executive Law § 63(12).

**FOURTH CAUSE OF ACTION
VIOLATIONS OF GENERAL BUSINESS LAW § 349
(as to all Defendants)**

130. The OAG repeats and realleges paragraphs 1 through 115 as if fully set forth herein.

131. GBL § 349 prohibits deceptive acts and practices in the conduct of any business, trade, or commerce or in the furnishing of any service in the state of New York.

132. As set forth above, the Defendants have engaged in deceptive acts and practices in violation of GBL § 349, including, but not limited to:

- a. Misrepresenting the status of and rights with respect to tickets, directly participating in a deceptive scheme to misrepresent the status of and rights with respect to tickets, and maintaining control over ticket listings that misrepresented the status of and rights with respect to tickets;

- b. Failing to adequately disclose material information to consumers, including the status of and rights with respect to tickets;
- c. Misrepresenting the policies and practices concerning ticket resellers, including by misrepresenting that speculative ticket listings were prohibited on the TicketNetwork platform;
- d. Misrepresenting the policies and practices concerning filling ticket orders, including by misrepresenting to consumers that they would be provided with the best available seating;
- e. Misrepresenting to consumers the reasons ordered tickets were unavailable; and
- f. Misrepresenting to consumers the relative quality of tickets.

**FIFTH CAUSE OF ACTION
VIOLATIONS OF GENERAL BUSINESS LAW § 350
(as to all Defendants)**

133. The OAG repeats and realleges paragraphs 1 through 115 as if fully set forth herein.

134. GBL § 350 prohibits false advertising in the conduct of any business, trade, or commerce or in the furnishing of any service in the state of New York.

135. As set forth above, Defendants have engaged in false advertising in violation of GBL § 350, including, but not limited to:

- a. Misrepresenting the status of and rights with respect to tickets, directly participating in a deceptive scheme to misrepresent the status of and rights with respect to tickets, and maintaining control over ticket listings that misrepresented the status of and rights with respect to tickets;

- b. Failing to adequately disclose material information to consumers, including the status of and rights with respect to tickets;
- c. Misrepresenting the policies and practices concerning ticket resellers, including by misrepresenting that speculative ticket listings were prohibited on the TicketNetwork platform;
- d. Misrepresenting the policies and practices concerning filling ticket orders, including by misrepresenting to consumers that they would be provided with the best available seating;
- e. Misrepresenting to consumers the reasons ordered tickets were unavailable; and
- f. Misrepresenting to consumers the relative quality of tickets.

**SIXTH CAUSE OF ACTION
VIOLATIONS OF GENERAL BUSINESS LAW § 396
(as to all Defendants)**

136. The OAG repeats and realleges paragraphs 1 through 115 as if fully set forth herein.

137. GBL § 396 prohibits offering for sale any merchandise, commodity, or service as part of a plan or scheme with the intent, design, or purpose not to sell the merchandise, commodity, or service so advertised.

138. As set forth above, the Defendants have engaged in unlawful selling practices in violation of GBL § 396, including, but not limited to offering a ticket for sale with the intention of providing a different ticket.

**SEVENTH CAUSE OF ACTION PURSUANT TO EXECUTIVE LAW § 63(12):
VIOLATIONS OF ARTS AND CULTURAL AFFAIRS LAW § 25.23
(as to Ticket Galaxy)**

139. The OAG repeats and realleges paragraphs 1 through XXX as if fully set forth herein.

140. ACA Law § 25.23 requires that a licensee that conducts business through the internet conspicuously display, on the internet page on which tickets are accessed, a price list showing the established price charged by the operator of the place of entertainment for the offered ticket together with the price being charged by the licensee, or a hyperlink to the price list.

141. As set forth above, Defendant Ticket Galaxy has violated ACA Law § 25.23 by selling tickets through the internet on pages that did not contain a price list.

PRAYER FOR RELIEF

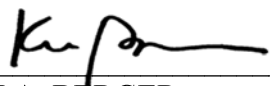
WHEREFORE, Plaintiff requests an order and judgment:

- a. Permanently and preliminarily enjoining the Defendants from violating the laws of the State of New York, including: Executive Law § 63(12); General Business Law §§ 349, 350, and 396; and Arts and Cultural Affairs Law § 25.23;
- b. Directing the Defendants to produce an accounting of monies collected from consumers in New York who placed category orders and consumers outside of New York who placed category orders with New York brokers in violation of Executive Law § 63(12) or General Business Law §§ 349, 350, or 396;
- c. Directing the Defendants to disgorge all monies resulting from the fraudulent and illegal practices alleged herein;

- d. Directing the Defendants to make full restitution to consumers and pay damages caused, directly or indirectly, by the fraudulent and deceptive acts and repeated fraudulent acts and persistent illegality complained of herein plus applicable pre-judgment interest;
- e. Directing the Defendants to pay a civil penalty of \$5,000 for each violation of GBL Article 22-A, pursuant to GBL § 350-d;
- f. Directing the Defendants to pay a penalty of three times the Defendants' gain for each violation of ACA § 25.23, pursuant to ACA § 25.35(6) and (7);
- g. Directing such other equitable relief as may be necessary to redress the Defendants' violations of New York law;
- h. Awarding plaintiff costs of \$2,000 pursuant to CPLR § 8303(a)(6); and
- i. Granting such other and further relief as the Court deems just and proper.

New York, NY
September 14, 2018

Respectfully submitted,
Barbara D. Underwood
Attorney General of New York

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